



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2014-0145; FRL-9909-53-Region 6]

Approval and Promulgation of Air Quality Implementation Plans; Louisiana; Clean Data Determination for the Baton Rouge Area for the 2008 Ozone National Ambient Air Quality Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) has determined that the Baton Rouge, Louisiana marginal 2008 8-hour ozone nonattainment area is currently attaining the 2008 8-hour National Ambient Air Quality Standard (NAAQS) for ozone. This determination is based upon complete, quality assured, certified ambient air monitoring data that show the area has monitored attainment of the 2008 8-hour ozone NAAQS during the 2011-2013 monitoring period, and continues to monitor attainment of the NAAQS based on preliminary 2014 data.

DATE: This rule is effective on **[Insert date 60 days from date of publication in the Federal Register]** without further notice, unless EPA receives relevant adverse comment by **[Insert date 30 days from date of publication in the Federal Register]**. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket No. EPA-R06-OAR-2014-0145, by one of the following methods:

- *www.regulations.gov*. Follow the on-line instructions.

• E-mail: Mr. Guy Donaldson at *donaldson.guy@epa.gov*. Please also send a copy by email to the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.

• Mail or delivery: Mr. Guy Donaldson, Chief, Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733.

Instructions: Direct your comments to Docket ID No. **EPA-R06-OAR-2014-0145**.

EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information through *http://www.regulations.gov* or e-mail, if you believe that it is CBI or otherwise protected from disclosure. The *http://www.regulations.gov* website is an “anonymous access” system, which means that EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment along with any disk or CD-ROM submitted. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider

your comment. Electronic files should avoid the use of special characters and any form of encryption and should be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at

<http://www.epa.gov/epahome/dockets.htm>.

Docket: The index to the docket for this action is available electronically at *www.regulations.gov* and in hard copy at EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available at either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment with the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at 214-665-7253.

FOR FURTHER INFORMATION CONTACT: Ms. Ellen Belk, Air Planning Section (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733, telephone (214) 665-2164, fax (214) 665-6762, e-mail address belk.ellen@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document "we," "us," and "our" refer to EPA.

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I. Background

On May 21, 2012 (77 FR 30088), effective July 20, 2012, EPA designated as nonattainment any area that was violating the 2008 8-hour ozone NAAQS based on the three most recent years (2008-2010) of air quality data. The Baton Rouge area (specifically, Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge Parishes) was designated as a marginal ozone nonattainment area. Recent air quality data indicate that the Baton Rouge area is now attaining the 2008 8-hour ozone standard.

EPA is taking direct final action in determining that the Baton Rouge, Louisiana marginal 2008 8-hour ozone nonattainment area (hereafter the Baton Rouge area) has attained the 2008 8-hour NAAQS for ozone. This determination is based upon complete, quality assured and certified ambient air monitoring data that show the area has monitored attainment of the ozone NAAQS during the 2011-2013 monitoring period. Data entered into EPA's Air Quality System database (AQS) for 2014, but not yet certified also show that the area continues to attain the standard.

This clean data determination for the Baton Rouge area is being taken at the request of the State of Louisiana¹ and in accordance with our Clean Data Policy.² This Clean Data Determination serves as notice to the public that the nonattainment area's air quality meets the 2008 ozone NAAQS.³

¹ See Louisiana's letter from Secretary Peggy Hatch to Mr. Ron Curry, dated January 23, 2014 in the docket for this action.

² Our Clean Data Policy is set forth in a May 10, 1995, EPA memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, entitled "Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard." This policy is included in the docket for this action.

³ See Memorandum from Janet McCabe, Deputy Assistant Administrator, Office of Air & Radiation, to Regional Administrators, Region I – X, dated April 6, 2011, entitled, "Regional consistency for the Administrative Requirements of State Implementation Plan Submittals and the use of "Letter Notices",

To clarify, this action does not constitute a redesignation to attainment under CAA section 107(d)(3)(E)(i). This is because we do not yet have an approved maintenance plan for the area as required under section 175A of the CAA, nor have we found that the area has met the other applicable requirements for redesignation. The classification and designation status of the area will remain marginal nonattainment for the 2008 8-hour ozone NAAQS, and will be subject to marginal nonattainment applicable requirements including a nonattainment NSR SIP and an EI, until such time as EPA determines that the area meets all the CAA applicable requirements for redesignation to attainment. This finding means the area will have met one important requirement for redesignation, that is, having air quality that meets the standard. EPA expects that Louisiana will be providing the remaining elements necessary for redesignation in a SIP revision. Also, this action does not constitute a Determination of Attainment by an Area's Attainment Date under CAA section 179(c), 181(b)(2) and 188(b)(2).

II. EPA's Evaluation

For ozone, an area may be considered to be attaining the 2008 8-hour ozone NAAQS if there are no violations, as determined in accordance with 40 CFR 50, based on three complete, consecutive calendar years of quality-assured air quality monitoring data. Under EPA regulations at 40 CFR Part 50, the 2008 8-hour ozone standard is attained when the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations at an ozone monitor is less than or equal to 0.075 parts per million (ppm) (i.e., 0.075 ppm, based on the truncating conventions in 40 CFR part 50,

“Attachment C – Determinations of Attainment by an Area's attainment Date v. Clean Data Determinations & Redesignation Requests and Maintenance Plans” (p. 9) in the docket for this action.

Appendix P). This 3-year average is referred to as the design value. When the design value is less than or equal to 0.075 ppm at each monitor within the area, then the area is meeting the NAAQS. Also, the data completeness requirement is met when the average percent of days with valid ambient monitoring data is greater than or equal to 90%, and no single year has less than 75% data completeness as determined in Appendix P of 40 CFR Part 50. The data must be collected and quality-assured in accordance with 40 CFR part 58, and recorded in the EPA Air Quality System (AQS). The monitors generally should have remained at the same location for the duration of the monitoring period required for demonstrating attainment. For ease of communication, many reports of ozone concentrations are given in parts per billion (ppb); $\text{ppb} = \text{ppm} \times 1,000$. Thus, 0.075 ppm equals 75 ppb.

EPA reviewed the Baton Rouge area ozone monitoring data from ambient ozone monitoring stations for the ozone seasons 2011 through 2013, as well as data for the 2014 ozone in AQS but not yet certified. The 2011-2013 ozone season data for all the ozone monitors in the Baton Rouge area have been quality assured and certified by EPA. The design value for 2011-2013 is 0.075 ppm, and is not changed by the preliminary data for 2014 (at this time of this writing, March 7, 2014, preliminary data available in AQS included data for the month of January, 2014). The data for the three ozone seasons 2011-2013, and preliminary data for 2014, show that the Baton Rouge area is attaining the 2008 8-hour ozone NAAQS.

Table 1 shows the fourth-highest daily maximum 8-hour average ozone concentrations for the Baton Rouge, Louisiana nonattainment area monitors for the years 2011-2013. (To find the overall design value for the area for a given year, simply find

the highest design value from any of the eight monitors for that year.) The location of each monitoring site in the Baton Rouge area is shown on the map entitled, “Baton Rouge ozone and ozone precursor monitoring network” included in the docket associated with this action.

Table 1 – Baton Rouge Area Fourth High 8-hour Ozone Average Concentrations and Design Values (ppm) ^{1, 2}

Site	4 th Highest Daily Max			Design Values Three Year Averages
	2011	2012	2013	2011-2013
Plaquemine (22-047-0009)	0.079	0.074	0.061	0.071
Carville (22-047-0012)	0.084	0.073	0.068	0.075
Dutchtown (22-005-0004)	0.080	0.071	0.062	0.071
LSU (22-033-0003)	0.083	0.075	0.067	0.075
Port Allen (22-121-0001)	0.074	0.070	0.060	0.068
Pride (22-033-0013)	0.075	0.070	0.062	0.069
French Settlement (22-063-0002)	0.077	0.071	0.069	0.072
Capitol (22-033-0009)	0.080	0.072	0.066	0.072

¹ Unlike for the 1-hour ozone standard, design value calculations for the 2008 8-hour ozone standard are based on a rolling three-year average of the annual 4th highest values. This is the same as design value calculations for the 1997 8-hour ozone standard. (40 CFR Part 50, Appendix I).

² The Baker and Grosse Tete ozone monitoring sites were shut down after 2010; no data from these sites was used in the design values included in this table.

The 8-hour ozone design value for the Baton Rouge area based on monitoring data for 2011 through 2013 is provided in Table 2:

Table 2 – Baton Rouge Area 8-hour Ozone Design Value (ppm)

Baton Rouge Area Overall	Design Value
	Three Year Average
	2011-2013
	0.075

As shown in Table 2, the 8-hour ozone design value for 2011-2013, which is based on a three-year average of the fourth-highest daily maximum average ozone concentration at the monitor recording the highest concentrations, is 0.075 ppm, which meets the 2008 8-hour ozone NAAQS. Data through 2013 have been quality assured, as recorded in AQS. Data for 2014 not yet certified also indicate that the area continues to attain the 2008 8-hour NAAQS. In summary, monitoring data for Baton Rouge for the three years 2011 through 2013, as well as preliminary monitoring data for 2014, show continued attainment of the 2008 8-hour ozone standard. Preliminary data for Baton Rouge for 2014 are included in the docket.

EPA's review of these data confirms that the Baton Rouge ozone nonattainment area has met and continues to meet the 2008 8-hour ozone NAAQS. Data for 2011-2013, show the area continues to attain the 2008 8-hour ozone NAAQS. Preliminary data available to date for the 2014 ozone season are consistent with continued attainment.

III. Final Action

We are taking direct final action to find that the Baton Rouge, Louisiana marginal 2008 8-hour ozone nonattainment area has attained the 2008 8-hour NAAQS for ozone. This action is based on complete, quality assured data for 2011-2013 indicating attainment as well as on preliminary data for the 2014 ozone season available to date

which are consistent with continued attainment. As provided in 40 CFR Section 51.918, this action provides formal acknowledgement that the Baton Rouge area air quality data for 2011-2013, including preliminary data for 2014, meet the applicable requirements of EPA's Clean Data Policy for the 2008 8-hour ozone standard.

EPA is publishing this rule without prior proposal because we view this as a non-controversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the SIP revision if relevant adverse comments are received. This rule will be effective on **[FEDERAL REGISTER OFFICE: insert date 60 days from date of publication in the Federal Register]** without further notice unless we receive relevant adverse comments by **[FEDERAL REGISTER OFFICE: insert date 30 days from date of publication in the Federal Register]**. If we receive relevant adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so now. Please note that if we receive a relevant adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

IV. Statutory and Executive Order Reviews

This action makes a determination based on air quality data. For that reason, this action:

- is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because it merely makes a determination based on air quality data.

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. section 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[FEDERAL REGISTER OFFICE: insert date 60 days from date of publication of this document in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Ozone, Incorporation by reference.

Dated: April 1, 2014.

Samuel Coleman,

Acting Regional Administrator, Region 6.

40 CFR part 52 is amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION
PLANS**

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart T – Louisiana

2. Amend § 52.977 to add a new paragraph (e) to read as follows:

§ 52.977 Control strategy and regulations: Ozone.

* * * * *

(e) *Clean Data Determination*. Effective **[Insert date 60 days from date of publication in the Federal Register]** EPA has determined that the Baton Rouge, Louisiana, marginal 2008 8-hour ozone nonattainment area is currently attaining the 2008 8-hour NAAQS for ozone.